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FAA-99-6673-41

May 4, 2000

Admiral Cathal Flynn  
Associate Administrator  
Civil Aviation Security, ACS-1  
Federal Aviation Administration  
800 Independence Avenue, SW  
Washington, DC 20591

Dear Admiral Flynn:

Huntleigh USA Corporation filed our comments today with the Department of Transportation concerning the FAA's proposed rule to certify companies performing contract screening services to air carriers in the United States. We commend the FAA for responding to the recommendations of the 1996 White House Commission on Aviation Safety and Security to certify screening contractors.

Our major concern with the proposal is the financial and operational impact associated with completing employment history verification checks prior to training new preboard screeners. We understand the FAA's concern regarding disclosure of sensitive security information is driving this proposal. We are willing to provide financial data and work with the FAA in order to find alternatives which will lessen the financial and operational burden this requirement will impose on our company.

A copy of our comments is attached. Huntleigh USA Corporation is looking forward to formalizing our relationship with the FAA and we strongly advocate joint industry government partnerships to further our mutual goal of providing a safe and secure environment for the traveling public.

We look forward to working with you.

Sincerely,

Bill Glassman  
President and CEO

**Huntleigh USA Corporation**  
Member of ICTS Group

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**Before The  
U.S. Department of Transportation  
Federal Aviation Administration  
Washington, DC**

**In the matter of  
Notice of Proposed Rule Making  
To amend 14CFR Parts 108, 109, 129  
And 191 and Propose Part 111.**

**Docket No. 1999 - 6673**

**Comments of the Huntleigh USA Corporation**

Huntleigh USA Corporation respectfully submits the following comments to the Department of Transportation's (DOT) Notice of Proposed Rulemaking to amend the existing Federal Aviation Regulations (FARs) relating to aviation security and to propose new rules under 14CFR Part 111 to certify screening companies that perform screening services for air carriers under 14 CFR Part 108, indirect air carriers under Part 109, and foreign air carriers under Part 129.

Huntleigh USA Corporation is one of four national service providers of security preboard screening for virtually all the major domestic and regional airlines in fifty (50) airports throughout the United States. Huntleigh employs 5,000 people and has provided service to the airline industry for over 25 years.

We fully support the Federal Aviation Administration's efforts to draft a proposal to certify security-screening contractors and modify the existing aviation security FARs to complement the proposal. The majority of our comments will focus on the proposed FAR 111. However, we would be remiss if we failed to comment on several areas of concern in the proposed amendments to FAR 108 and 129. Those comments will be included at the end of the document.

Our review of the regulatory analysis and its supporting documentation raised numerous questions regarding the economic impact of the proposal and the resulting adverse consequences. We do not subscribe to the FAA's position that this proposal is not an economically significant action. We believe the basis for a number of the cost estimates to implement this proposal are not realistic and warrant further review prior to the publication of the final rule. Huntleigh USA Corporation is willing to meet with the FAA to assist in this review.

## **Part 111 – Screening Company Security**

### **Subpart – A- General**

#### **Section 111.1 Applicability**

**Paragraph (d)** The scope of the language in this section is extremely broad and the intent is not clear. We suggest the FAA clarify what the term *interact* means in the context of this proposal, or strike this paragraph from the proposal.

#### **Section 111.9 Prohibition against interference with screening personnel.**

We strongly support the FAA's proposal to prohibit interference with those persons performing screening services. It is unfortunate that a certain element of the public does not respect the reasons for passenger and baggage screening and we believe it is important to protect checkpoint security personnel from unruly passengers and persons who attempt to harass or intimidate them.

### **Subpart – B – Security Program, Certificate, and Operations Specifications.**

#### **Section 111.101. Performance of Screening**

Huntleigh USA Corporation strongly recommends the FAA provide the appropriate sensitive security information directly to the certified screening contractor when emergency amendments or security directives are issued by the FAA. Direct communication with the contractor streamlines the information flow and implementation process. We recommend a procedure similar to that currently used by the FAA to notify the air carriers. The FAA should grant a secret level security clearance to a select number of key certified contractor personnel. The FAA would notify and send the information to the person(s) holding the clearance at the certified screening contractor's corporate office for distribution to the appropriate field locations affected by the emergency amendment or security directive. Contractors and air carriers would jointly coordinate the implementing procedures.

Alternatively, if we are still under the direct control of the airlines for distribution of security information, we see no point in the certification process.

#### **Section 111.103. Security Program: Adoption and Implementation**

We fully support the FAA's proposal to issue the certified screening contractor their own separate security program, the Screening Standard Security Program (SSSP), to clarify the requirements in the proposal. Since the inception of checkpoint security screening in the early 1970's, the screening contractors have relied on the air carriers to communicate security requirements from the Air Carrier Standard Security Program (ACSSP). Due to the restrictions placed on the document, contractors were not privy to the information contained in the ACSSP.

We encourage FAA to provide a separate contractor SSSP to keep the regulatory process as simple as possible. By directly communicating security requirements to the certified contractor, the FAA will eliminate a problem which has existed for over 25 years. Huntleigh USA welcomes the opportunity to work directly with the FAA to ensure the SSSP is a viable procedures document.

We strongly believe the air carriers should not be excluded from access to the SSSP, since FAA is proposing to amend FAR Part 108.201 to require air carrier oversight of the certified security contractor. We recommend the FAA designate the SSSP as a separate section or addendum to the ACSSP for informational purposes only. This will insure standardized policies and procedures are readily available to both air carriers and certified contractors. Additionally, air carriers should have the opportunity to comment on any proposed changes to the SSSP.

### **Section 111.107 Security Program: Approval and amendments.**

**111.107 - (b)** When a screening company requests an amendment to the SSSP, the screening company must notify all carriers for which it screens. Conversely, we recommend that if an air carrier requests an amendment to their ACSSP which directly impacts the operations of the screening company, the FAA should require the air carrier to notify the screening contractor to ensure they have no objections to the proposed amendment. This will level the playing field to ensure that all regulated parties performing or overseeing screening functions are equally involved in the amendment process.

### **Section 111. 109 Screening company certificate.**

While this section outlines the procedures necessary for application for and granting of certification we recommend the following concerns be addressed before publishing the final rule:

- Under what circumstances would the FAA revoke a screening contractor's certification?
- What are FAA's criteria for repeated or systemic failures to perform required screening procedures?
- Will the FAA provide performance standards to the screening contractors prior to their application for certification? If not, isn't the certification process essentially invalid?
- What is the transition time if the FAA revokes a contractor's certificate? There must be a transition time to ensure the air carriers are not left without screening services.

The FAA states in its economic analysis that there are 66 preboard screening contractors performing screening services in the United States. It estimates there would be approximately 19,600 screeners and screener supervisors affected by this proposal. This

does not include management and administrative support personnel who also would be affected if the FAA were to revoke a certificate.

The livelihood of this workgroup should not be put at risk due to vague language, which as proposed, does not provide specific guidelines or a known standard for granting and revoking certification. We recommend this section be held in abeyance and more input be sought through public comment prior to its release in the final rule.

Additionally, the proposal indicates the performance standards set forth in the contractor's SSSP would be grounds for denial or revocation of a certificate. To the best of our knowledge the standards have not been specified in the draft SSSP provided to the contractors.

Additionally, we respectfully request the FAA to grant screening contractors at least a ninety (90) day implementation period following the publication date of the final rule. As a result of the comments submitted, there could be significant changes to this proposal. We expect to modify business practices, training programs and possibly increase our management and administrative headcount to comply with the final rule and will need sufficient time to accomplish those tasks. Also, we assume that we will have the opportunity to comment on the security program prior to its release, which we assume would be following the final rule publication date.

#### **Section 111.115 Operation Specifications: Approval, amendments, and limitations.**

**Paragraph (d)** states the FAA may limit the specific locations at which a screening company may operate if it determines that the company's operations are contrary to the interests of aviation safety and security. While we understand the intent of this proposal, we believe the language is too broad and should be modified as follows:

"The FAA may limit the specific locations at which a screening company may operate if it determines that the company operations are contrary to the interests of aviation safety and security as prescribed in the contractor's FAA approved security program."

#### **Section 111.117 Oversight by air carriers, foreign air carriers, or indirect air carriers.**

**Paragraph (b) proposes** the screening contractor provide a copy of each letter of investigation and final enforcement action to each air carrier using the screening location where the alleged violation occurred within three business days of receipt of the letter of investigation or final enforcement action. We do not object to the proposal to advise the airlines, however, we recommend the notification time be increased to five business days to ensure compliance.

Additionally, if an air carrier receives a letter of investigation or final enforcement action citing a certified screening contractor, the air carrier should notify the screening contractor within five business days of receipt. Most screening contractors are bound by

their contract with the air carrier to pay for security violations. This can result in a situation where the air carrier has no incentive to investigate the allegations and the contractor ends up paying the fine. Again, the certification requirement should level the playing field between the regulated parties.

It is our understanding that the FAA intends to take enforcement action against both the screening contractor and the air carrier. We strongly disagree with this action and recommend the FAA not implement such a requirement and only take such an action against the party directly responsible for the alleged violation.

We also support the concept of individual accountability and understand the agency will soon propose a regulation to cite and fine an individual \$1,000.00 for failing to comply with security FAR's. We oppose the amount of the proposed penalty for a preboard screener. It would result in a significant economic burden. Thus, we recommend the FAA propose an exception for screeners and suggest an individual penalty not to exceed \$100.00.

### **Subpart C - Operations**

#### **Section 111.205 Employment Standards for screening personnel.**

**Paragraph 4. (ii)** Huntleigh USA Corporation is committed to non-discriminatory practices and continually reinforces to its employees the need to be sensitive to civil liberty issues. We do not believe it is appropriate for the FAA to include this language in the proposal. There are other more appropriate government agencies who are charged with governing such practices. Non-discriminatory practices are clearly the responsibility of the employer and are not in the scope of civil aviation security requirements. We strongly oppose this paragraph and recommend it not be included in the final rule.

#### **Section 111.207 - Disclosure of sensitive security information.**

This proposal as written will cause an undue financial and operational hardship on our company. While we recognize the FAA's concern regarding dissemination of sensitive security information and we fully understand the need for employment history verification, we simply are not able to comply with the proposal to complete employment verification checks prior to training prospective employees. Currently it takes approximately one week to gather the required background check information for the average prospective employee. Most candidates are not willing to wait one week to be employed. The cost and time associated with providing the background check is absorbed by Huntleigh if the person fails the initial training program. We currently have a very high failure rate. For this reason, we normally do not conduct the check until we are reasonably sure the candidate will successfully complete the training. We are willing to provide the FAA with an estimate for the cost of this proposal.

It is our understanding that we will soon be required to conduct a FBI fingerprint check on all new employees, and we understand that the FBI will soon be able to process these

checks more efficiently when their IAFIS system is place. As an alternative, we recommend the FAA hold the above mentioned proposal in abeyance and work with the FBI to gain processing priority for all employees governed under FARs 107, 108, 109, 111, and 129. The U.S. government states that civil aviation continues to be an attractive target for terrorists, thus it would seem the government would endorse priority processing for the above mentioned employees.

We recommend the FAA allow Huntleigh USA to continue to train their employees under the current practices. We commit to the FAA that we will explore alternatives to expedite the completion of background checks and we will strongly support the FAA's forthcoming requirement for FBI fingerprint checks. We believe this requirement will be far more effective and suggest that it could result in eliminating the employment verification checks.

#### **Section 111.213 Training and knowledge of persons with screening related duties.**

We support the FAA's proposal but strongly encourage the FAA to ensure that national standards for training programs are set forth in the SSSP. Aviation security screening procedures, which are visible to the traveling public, must be consistent and conform to a national standard agreed upon by the FAA, the airlines and the certified screening contractor. Terminology, procedures and policies must be consistent so as not to confuse the traveling public.

For the past twelve years the Air Transport Association (ATA) and the Regional Airline Association (RAA) has provided such a training program as well as a standard operating procedures manual, the Checkpoint Operations Guide (COG), which were developed with the assistance of the FAA and screening contractors. Additionally, screening contractors have been required by the member airlines to send their trainers to the ATA/RAA Train the Trainer program to ensure standardized instruction. The aforementioned has shaped much of the training conducted by screening contractors and resulted in a consistent interpretation of FAA requirements nationwide. The certification process will allow contractors the flexibility to develop their own training programs. The regulator should work in partnership with the screening contractors and the air carriers to establish training standards, and only approve training programs that meet the standard.

Additionally, we strongly support the FAA's proposal for performance based training, which eliminates the need for an hourly requirement and is based on completion of knowledge based tests to determine comprehension levels.

#### **Section 111.215 - Training Test: Requirements.**

We endorse the FAA's proposal to develop standardized screener readiness tests, on-the-job training tests, FAA review tests and computer based testing, where available. We recommend the FAA join with the certified screening contractor and the air carrier to develop these tests.

**Paragraph (e)** - We strongly oppose this proposal to require an air carrier employee to monitor the testing of screeners. We do not believe that having an air carrier representative present during testing will significantly improve or enhance the testing process. Contractors are continually training new personnel often at odd hours and on weekends. It will be extremely burdensome to locate air carrier personnel to monitor testing when they are often tied up with daily station functions that require their full attention for efficient and timely flight operations.

We do encourage air carriers to engage in more testing of the system. Our records indicate that on the average at many locations, we conduct over five hundred (500) tests monthly, while the air carriers and FAA conduct significantly less.

#### **Section 111.221 – Screener and Supervisor Training Records.**

**Paragraph (e)** - We do not object to surrendering all original training records to the air carrier upon termination of a contract at a specific site. However, we need assurances we will not be held liable for any additions or alterations to the records once we have relinquished them to the air carrier.

#### **Section 111.223 – Automated Performance Standards.**

Huntleigh USA Corporation supports the FAA's deployment of threat image projection (TIP) systems and the forthcoming development of screener performance standards based on the results of TIP testing and evaluation. We are not able to comment in detail on this proposal since no information is available or protocols established for measuring screener performance using TIP. We strongly recommend that FAA invite certified screening contractors and air carriers to participate in developing the TIP training and testing protocols. Further we recommend the FAA partner with the aforementioned to develop the performance standards. In the past, joint government industry partnerships addressing aviation security have succeeded in establishing recommendations for determining the domestic aviation baseline, as well as developing the industry wide application of computer assisted passenger screening (CAPS).

While we support the automated performance standards, we want to reiterate that TIP based performance standards will only encompass about one-third of the preboard screener job functions. Existing requirements for bag searches, hand wand searches and physical searches should be reviewed to ensure standardized performance measurements exist for these job functions.

### **Part 108 –Aircraft Operator Security**

#### **Section 108.201 Screening of persons and property and acceptance of cargo.**

**Paragraph (5) (I).** Huntleigh USA Corporation strongly opposes the proposal requiring air carriers to notify the public by posting signs stating the screening process will be slower than normal at a particular location. It is the responsibility of the screening



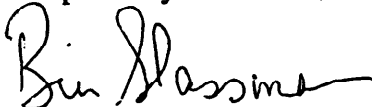
contractor working in partnership with the air carrier to comply with FAA requirements while efficiently processing passengers and carry – on baggage. If public notification is necessary it is clearly the responsibility of those entities responsible for the customer service aspects of the screening process to determine the best means of advising passengers. This is a customer service issue and should not be a part of aviation security procedures.

## **Part 129 –Operation: Foreign Air Carriers and Foreign Operators of U.S. Registered Aircraft Engaged In Common Carriage**

### **Section 129.25 Aircraft Security**

**Paragraph (5)(o) Huntleigh** USA strongly opposes this paragraph for the same reasons stated in its opposition of Part 108.201(5)(l).

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Bill Glassman", written in a cursive style.

Bill Glassman  
President and CEO  
Huntleigh USA Corporation  
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St. Louis, Missouri 63141  
May 4, 2000